

## SAMPLE ADVERSE ACTION DECISION NOTICE<sup>1</sup>

[NOTE: All Footnotes and Brackets below contain supervisory instructions and should not be included in the final letter. All letters affecting or proposing disciplinary action should be reviewed in the Personnel Office prior to issuance.]

To: Employee Name, Title

From: Assistant Regional Director\_\_\_\_\_

Subject: Decision in Notice of Proposed (Suspension for \_\_ Days/Demotion/Removal)

In a letter dated April 8, 20\_\_\_\_ proposed to [state, as appropriate:]

- "remove you from the Fish and Wildlife Service",
  - "reduce you in grade from GS-\_\_ to GS-\_\_", or
  - "suspend you from duty and pay for a period of \_\_\_\_\_ calendar days,"
- for **(state reason given in proposal)** and based on the reason(s) and specifications(s) therein.

I have carefully considered [include, as applicable, replies and their dates, including any medical documentation provided] your written reply of April 15, 20\_\_ and your oral reply on April 23, 20\_\_, and the evidence in support of each.

My decision regarding the reasons stated in the letter of April 8, 20\_\_, is as follows:

REASON 1	Sustained
Specification 1	Sustained
Specification 2	Sustained
Specification 3	Sustained
Specification 4	Not sustained
REASON 2	Sustained
Specification 1	Sustained
Specification 2	Sustained

[NOTE: If all reasons and specifications are sustained, a statement to that effect will suffice.]

[In all cases where aggravating circumstances, such as prior discipline, are mentioned in the proposal letter, they should also be referenced here, for example:] I have also taken into consideration the fact that you received a 13-day suspension for making false statements on October 6, 20\_\_. [Aggravating factors not mentioned in the proposal letter should not be considered or discussed. ]

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[The deciding official should demonstrate all relevant factors have been considered in arriving at the decision. This can be done by means of a statement to that effect, such as:] In determining what penalty is adequate and appropriate in this case, I have considered all relevant factors, including those listed in 227 FW 2, Appendix 1, Part B, and those raised by you (and your representative) in your replies. [The deciding official should discuss specific factors brought forth by the employee and representative, indicating that they were taken into consideration]. I have considered your statement that you have been under severe personal and work stress the past few months and your statement that you are sorry for what you have done. [The factors listed in 227 FW 2, Appendix 1, Part B should be discussed as appropriate] I have also considered that your position requires that you be accountable for safeguarding money, that you have been in this position for more than 10 years, that you have received annual training in proper procedures for safeguarding funds entrusted to you since being assigned to this position, and that you have also received annual ethics training for the past 5 years. I have also considered that the publicity surrounding the mishandling of monies entrusted to you and your making false statements has resulted in a loss of confidence by others in your honesty. Not only must the Service be able to rely on the honesty of its employees, your misconduct has seriously impaired your ability to perform the duties of your position. Your misconduct is a very serious violation that warrants severe disciplinary action.

[For a removal, state:] I have concluded that a removal will promote the efficiency of the Federal Service and that a lesser penalty would be inadequate. It is my decision to remove you from the U.S. Fish and Wildlife Service effective May 16, 20\_\_.

[For a demotion, state:] I have concluded that a reduction in grade will promote the efficiency of the Service. It is my decision to reduce you in grade from GS-\_\_ to GS-\_\_ effective May 16, 20\_\_. You are advised that any repetition of this misconduct or other misconduct may result in more severe disciplinary action.

[For a suspension, state:] I have concluded that a suspension will promote the efficiency of the Service. It is my decision that you be suspended from duty and pay for a period of 18 calendar days commencing May 16, 20\_\_. You will return to duty at 8:00 a.m. on June 3, 20\_\_. You are advised that any repetition of this misconduct or other misconduct may result in more severe disciplinary action.

You have the right to appeal this action to the Regional Director, Merit Systems Protection Board (MSPB), [address]. Your appeal must be received by the office of the MSPB no later than thirty (30) calendar days after the effective date of this (suspension) (removal) (demotion). Personal delivery during normal business hours, delivery by regular mail, by facsimile (FAX: [telephone]), or delivery by commercial overnight delivery service is required by the Board. A copy of the Board's regulations and Appeal Form is attached. Petitions of appeal may be in any format including letter form, but must contain the information specified on the Appeal Form.

*November 2001*

Should you allege that the action taken against you was based in whole or in part on discrimination because of race, color, religion, sex, age, national origin, physical or mental handicap, sexual orientation, status as a parent or protected genetic information, you have the following options available to you: (1) You may appeal the discrimination allegation to the Merit Systems Protection Board, or (2) you may appeal the discrimination allegation through the FWS discrimination complaint system under Part 1614 of the Equal Employment Opportunity Commission regulations. To appeal under Part 1614, the allegation must be brought to the attention of an EEO counselor within forty-five (45) calendar days of the effective date of this action. A description of subsequent appeal rights available under a Part 1614 appeal may be found in Subpart E of the enclosed Merit Systems Protection Board regulations.

Information about MSPB appeal rights and procedures may be obtained from the Employee Relations Specialist in the Personnel Office at [telephone]. For information concerning the discrimination complaint process call the Equal Employment Opportunity Counselor at [telephone].

**[If the employee meets the service requirements for disability retirement and there are indications that a medical condition may be the cause of the reasons for the action, add:]** If you believe that a medical condition is the cause of the reasons for this action, you may file an application for disability retirement. Please contact the Personnel Office for additional information.

The Standard Form 50 effecting your **[removal, demotion, or suspension]** will be forwarded to you when available.

Please acknowledge receipt of this letter by signing the attached copy and returning it to me. Your signature does not represent agreement or disagreement with this proposal and, by signing, you will not forfeit any of the rights mentioned. However, your failure to sign will not void the contents of the letter.

Sincerely,

Assistant Regional Director

Attachments

- 1 - MSPB Regulations (5 CFR Part 1201)
- 2 - MSPB Form (OF 283, Rev 10/94)

[NOTE: On a copy of the letter type the following for the employee to sign:]

“I acknowledge receiving this document.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date .”]

*November 2001*